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Attorney for Plaintiff
 EveryMD.com LLC

BY _____

2013 SEP -5 AM 10:16
 CLERK U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIF.
 LOS ANGELES

FILED

**IN THE UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

EVERYMD.COM LLC, a
 California Limited Liability
 Company,

Plaintiff,

v.

GOOGLE INC., a Delaware
 Corporation,

Defendant.

Civil Action No.

CV13-06490-PSG
 (AJW)

**COMPLAINT FOR PATENT
 INFRINGEMENT**

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff EVERYMD.COM LLC ("Plaintiff" or "EveryMD"),
 and on information and belief alleges as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement under 35 U.S.C. §§ 271 et. seq.
 and 28 U.S.C. §§ 1331 and 1338(a).

2. The acts of patent infringement alleged herein occurred within this
 judicial district, Plaintiff resides in this district, and Defendant GOOGLE INC.

1 (“Defendant” or “Google”) is subject to personal jurisdiction in this district.
2 Therefore, venue is proper pursuant to 28 U.S.C. §§ 1391(b), (c), and 1400(b).
3

4 **PARTIES**

5 3. Plaintiff is a California Limited Liability Company with a place of
6 business at 2032 Whitley Ave., Los Angeles, CA 90068.

7 4. Defendant is a Delaware Corporation with a place of business at 1600
8 Amphitheatre Parkway, Mountain View, CA 94043.
9

10 **FIRST CAUSE OF ACTION**
11 **PATENT INFRINGEMENT**

12 5. Plaintiff incorporates by reference paragraphs 1 – 4 as though fully set
13 forth herein.

14 6. Plaintiff owns the website www.everymd.com.

15 7. Plaintiff’s website at www.everymd.com has since the year 2000
16 provided email messaging services allowing patients to communicate with over
17 300,000 doctors.

18 8. Plaintiff’s principals Frank Weyer and Troy Javaher (collectively, “the
19 EveryMD inventors”) invented numerous novel technologies and inventions during
20 development of the www.everymd.com website.

21 9. On November 23, 1999, the EveryMD inventors filed U.S. Patent
22 Application Serial No. 09/447,755 entitled “Method Apparatus and Business System
23 for Online Communications with Online and Offline Recipients” disclosing the
24 inventions made by the EveryMD inventors while developing the www.everymd.com
25 website.
26

27 10. To date, four separate patents covering four separate inventions have
28 issued from the patent application originally filed in November 1999. Those patents

1 are U.S. Patent Nos. 6,671,714 (issued December 30, 2003), 7,644,122 (issued
2 January 5, 2010), 8,499,047 (issued July 30, 2013), and 8,504,631 (issued August 6,
3 2013).
4

5 11. Plaintiff is the assignee of record of U.S. Patent 8,504,631 entitled
6 “Method, Apparatus and Business System for Online Communications with Online
7 and Offline Recipients” (“the ‘631 patent”).

8 12. The ‘631 patent is valid and in full force and effect.

9 13. The ‘631 patent is directed to a novel method for providing notification
10 of online messages to a telephone number of a recipient.
11

12 14. Defendants Google+ service directly infringes the ‘631 patent by
13 practicing the claimed invention of the ‘631 patent without authorization of Plaintiff.

14 15. One example of how Defendant’s Google+ service directly infringes
15 claim 1 of the ‘631 patent is set forth in paragraphs 16 to 26 below.

16 16. The preamble of claim 1 of the ‘631 patent states:

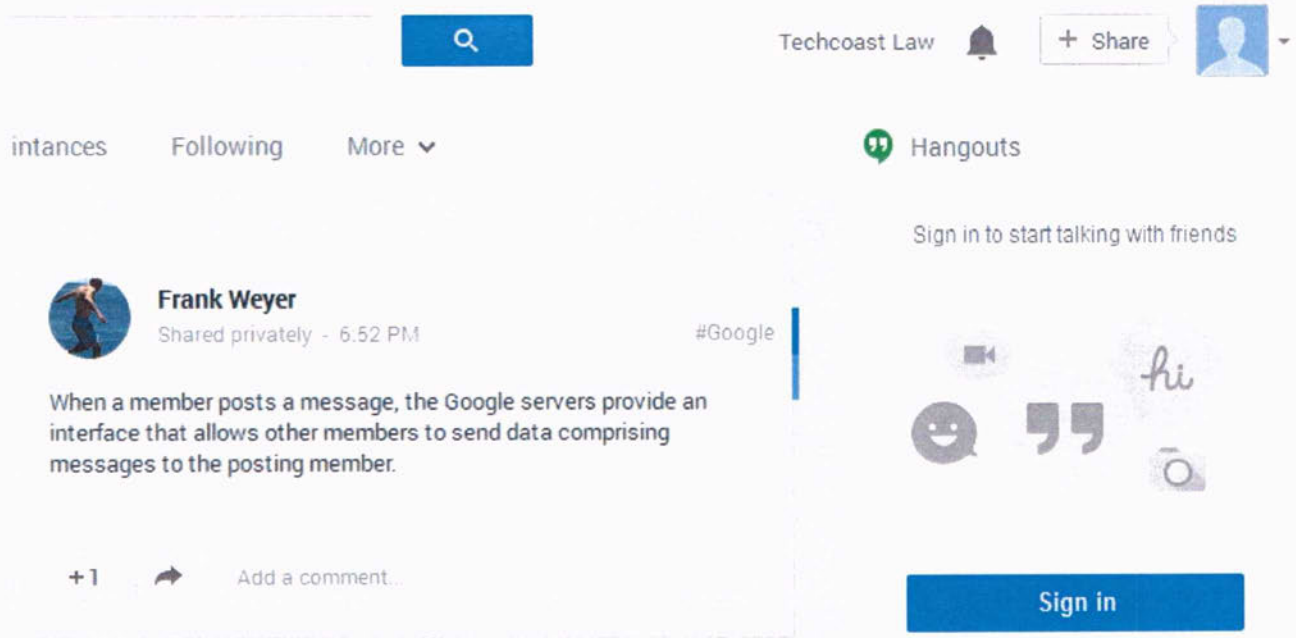
17 “1. A method for providing for communications by a server computer system
18 among a first member of a group of members for whom said server computer system
19 has created a first server created email box and a second member of said group of
20 members for whom said server computer system has created a second server created
21 email box, said method comprising the steps of:”
22

23 17. Google’s Google+ service provides communications between Google+
24 members. For each Google+ member, Google’s server computer system creates an
25 email box, typically an “@gmail.com” email box. Examples of email boxes created
26 by Google’s server computer system are “frank.weyer@gmail.com” (first server
27 created mailbox for first member “Frank Weyer”) and “techcoastlaw@gmail.com”
28 (second server created mailbox for second member “Techcoast Law”).

18. The limitation of claim 1 that follows the preamble of claim 1 of the '631 patent states:

“said server computer system transmitting a first server created web page to a first internet access device of said second member, said first server created web page comprising a message interface for receiving by said server computer system input data comprising a first message to said first member;”.

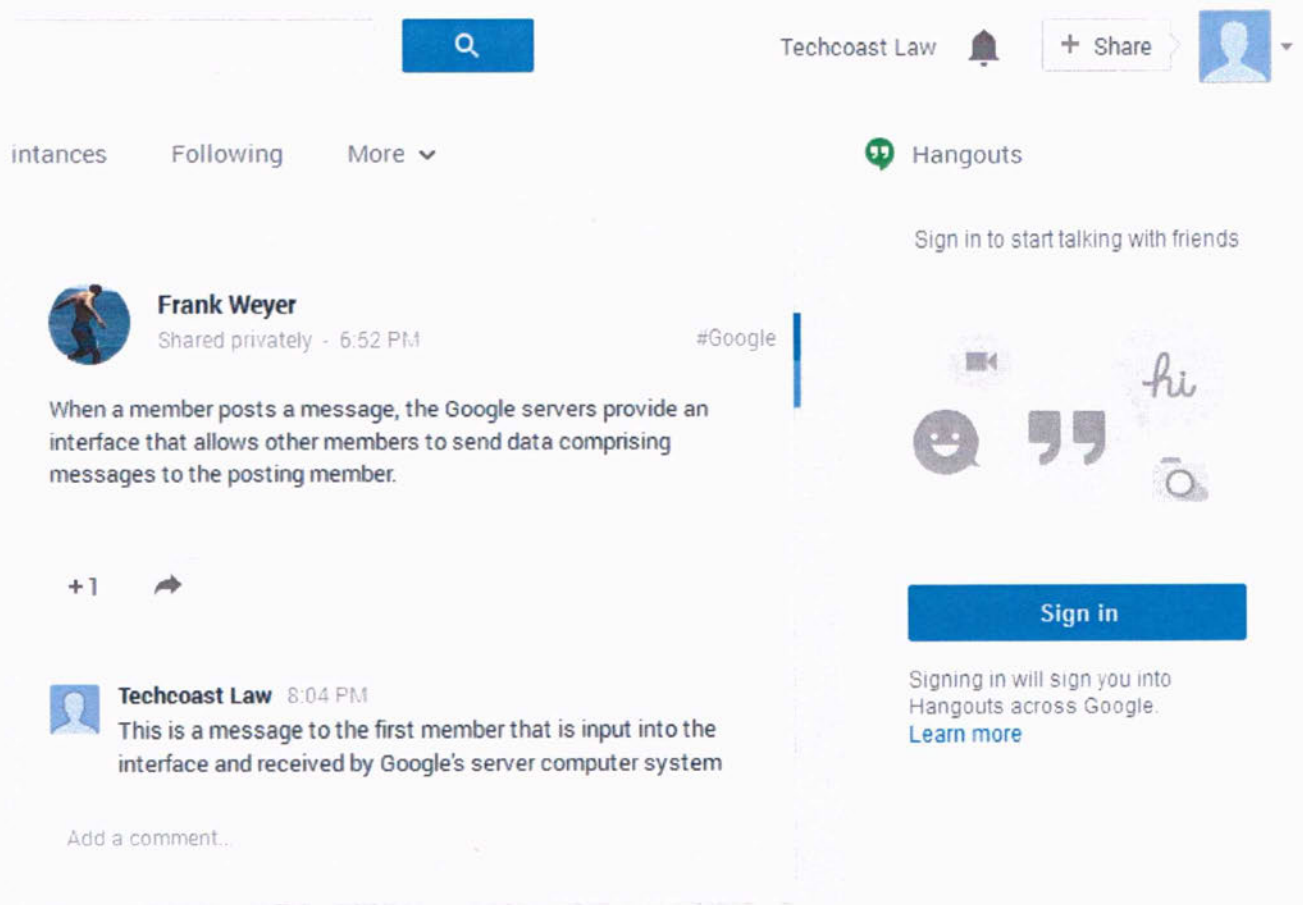
19. Google's server computer system transmits various server created web pages to an internet access device of a member (i.e. a “second member”) that provide message interfaces for receiving data comprising messages to another member (i.e. the “first member”). The screen capture below shows an example of such a “first server created web page” that includes such a “message interface.” In the screen capture below, the web page including the message interface has been provided to the second member “Techcoast Law” for receiving data comprising a first message (“Comment”) to first member “Frank Weyer.”



20. The next limitation of claim 1 of the '631 patent states:

1 “said server computer system receiving first input data entered into said
2 message interface from said first internet access device of said second member;”
3

4 21. When the second member enters input data into the message interface
5 from the second member’s internet access device, the first input data is received by
6 Google’s server computer system, as indicated by the input data now being displayed
7 as a received message with an indicated time of receipt on the web page provided by
8 the Google server computer system, as shown in the screen capture below. In the
9 screen capture below, the web page indicates that the input data was received by
10 Google’s server computer system from the internet access device of “second” member
11 “Techcoast Law” at “8:04 PM”:



22. The next limitation of claim 1 of the ‘631 patent states:

1 “said server computer system sending a second message to a telephone number
2 associated with said first member notifying said first member of said first input data;.”
3

4 23. Google+ allows members to indicate a telephone number at which to
5 receive notifications of online messages. The screen capture below shows the
6 different kinds of notifications the Google server computer system is configured to
7 send to a member’s telephone number:

8 **Receive notifications**

9 Notify me by email or SMS when someone...

10 **Posts**

 Email

 Phone

11 Mentions me in a post



12 Shares a post with me directly



13 Shares a post and they're in a circle I subscribe to



14 Comments on a post I created



15 Comments on a post after I comment on it



16 Shares or comments on your content across the web (for example,
17 your blog)



18 **Circles**

 Email

 Phone

19 Adds me to a circle



20 Suggests new people to add to my circles



21 Joins who is in my contacts



22 **Photos**

 Email

 Phone

23 Tags me in a photo



24 Tags one of my photos



25 Suggests a profile photo for me



26 Comments on a photo after I comment on it



27 Comments on a photo I am tagged in



28 **Messenger**

 Email

 Phone

Starts a conversation with me



Hangouts

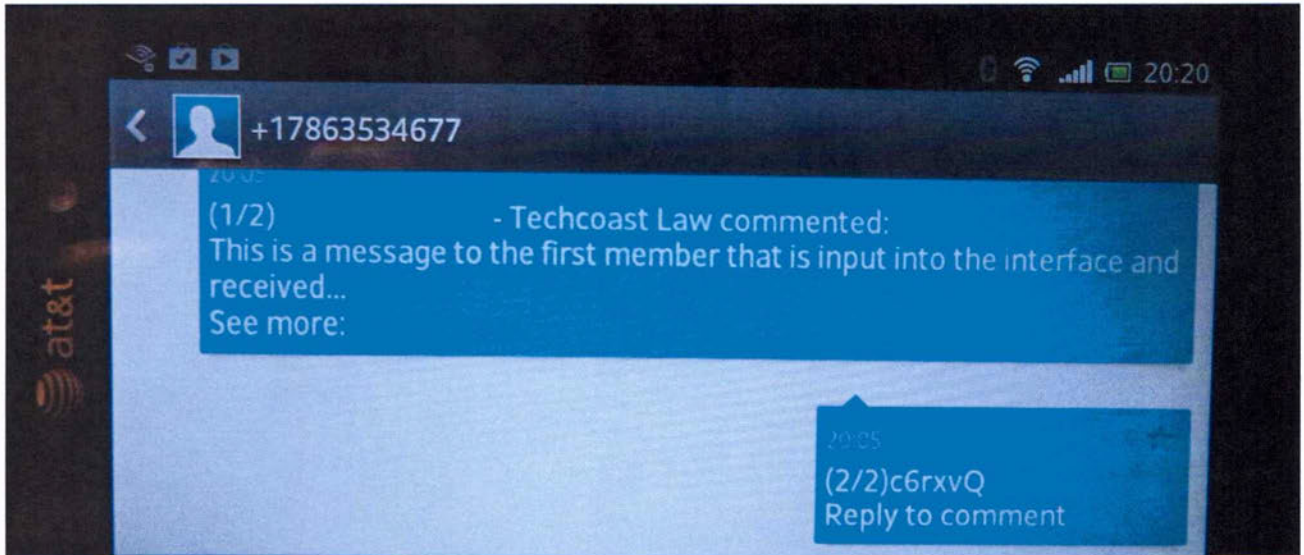
 Email

 Phone

Invites me to a video call



24. If a member has elected to receive phone notifications, Google's server computer system sends an SMS message ("second message") to the telephone number of the first member notifying the first member of the data input into the message interface by the second member. Below is a photograph of an example of such an SMS message sent to the first member's telephone number:



25. The last limitation of claim 1 of the '631 patent states:

"said server computer system sending a third message to said first server created email box of said first member, said third message comprising said first input data."

26. Google+ allows members to receive notifications of messages input by other members via their gmail mailboxes. If a member has elected to receive gmail notifications, Google's server computer system sends an email ("third message") to Google server created gmail email box comprising the first input data. Below is a screen capture of such a "third message" sent by the Google server computer system to the first server created email address "frank.weyer@gmail.com" of first member "Frank Weyer":

1 Re: When a member posts a message, the Google...

Inbox x

View this post in Google+

2 New comment Techcoast Law



4 Frank Weyer

6:52 PM

Shared privately

5 When a member posts a message, the Google servers provide an interface that allows other members to send data
6 comprising messages to the posting member.

7 +1



9 Techcoast Law

8:04 PM

This is a message to the first member that is input into the interface and received by Google's
server computer system



11 Add a comment... (Shared privately)

12

13 Techcoast Law shared this post with you. [Mute](#) notifications from Techcoast Law. [Mute](#) updates to this post. To change what emails
14 Google+ sends to you, you can always [manage email subscriptions](#) on the settings page.

15 27. Plaintiff has provided constructive notice of the '631 patent by marking
16 the www.everymd.com website with the '631 patent number.

17 28. Defendant has constructive and actual notice of Plaintiff's patent rights
18 but Defendant continues to act in conscious and willful disregard of those rights.

19 29. Defendant's infringements of Plaintiff's patent rights have irreparably
20 damaged Plaintiff and will continue to cause irreparable harm unless enjoined by the
21 Court.
22
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28

DEMAND FOR RELIEF

WHEREFORE, Plaintiff asks this Court to:

- a. Enter judgment for Plaintiff against Defendant on this Complaint;
- b. Enter a preliminary and permanent injunction to enjoin Defendant, and all those in privity with Defendant, from further infringement of the '631 patent during the remaining term of the patent;
- c. Award compensatory damages to Plaintiff and to increase those damages three times in accordance with 35 U.S.C. § 284;
- d. Award Plaintiff reasonable attorneys' fees in accordance with 35 U.S.C. § 285;
- e. Award Plaintiff interest and costs; and
- f. Award Plaintiff such other and further relief as is just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable.

Respectfully submitted,
TECHCOASTLAW®

Dated: September 4, 2013

By: 
Frank M. Weyer (State Bar No. 127011)
2032 Whitley Ave.
Los Angeles, CA 90068
(310) 494-6616
Fax (310) 494-9089
fweyer@techcoastlaw.com
Attorney for Plaintiff
EVERYMD.COM LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Philip S. Gutierrez and the assigned Magistrate Judge is Andrew J. Wistrich.

The case number on all documents filed with the Court should read as follows:

2:13-CV-6490-PSG (AJWx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

September 5, 2013

Date

By MDAVIS
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☐ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☐ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address:

Frank M. Weyer, Esq. (State Bar No. 127011)
 TECHCOASTLAW®
 2032 Whitley Ave.
 Los Angeles CA 90068
 Telephone: (310) 494-6616

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

EVERYMD.COM LLC, a California Limited Liability
 Company,

CASE NUMBER

PLAINTIFF(S)

v.

GOOGLE INC., a Delaware Corporation,

DEFENDANT(S).

CV 13-06490

PSG (AJW)

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Frank M. Weyer, whose address is Techcoastlaw, 2032 Whitley Ave., Los Angeles, CA 90068. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: SEP - 5 2013

By: Marilyn Damm

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

EVERYMD.COM LLC, a California Limited Liability Company

DEFENDANTS (Check box if you are representing yourself ☐)

GOOGLE INC., a Delaware Corporation

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)FRANK M. WEYER (BAR NO. 127,011)
TECHCOASTLAW
2032 WHITLEY AVE, LOS ANGELES CA 90068
310-494-6616**(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)****II. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff
- ☒ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant
- ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES—For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1. Original Proceeding
- ☐ 2. Removed from State Court
- ☐ 3. Remanded from Appellate Court
- ☐ 4. Reinstated or Reopened
- ☐ 5. Transferred from Another District (Specify)
- ☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)**CLASS ACTION under F.R.Cv.P. 23:** ☐ Yes ☒ No☐ **MONEY DEMANDED IN COMPLAINT:** \$**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
Patent Infringement under 35 U.S.C. 271(a)**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> Habeas Corpus: 463 Alien Detainee	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input checked="" type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument		TORTS	<input type="checkbox"/> 535 Death Penalty	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	PERSONAL INJURY	PERSONAL PROPERTY	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 350 Motor Vehicle	CIVIL RIGHTS		<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters		<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 440 Other Civil Rights	LABOR	
<input type="checkbox"/> 895 Freedom of Info. Act	REAL PROPERTY	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 751 Family and Medical Leave Act	
		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY: Case Number:

CV13-06490

AFTER COMPLETING PAGE 1 OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED ON PAGE 2.

CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply)
- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
NOTE: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	

*Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT): _____ **DATE:** SEPTEMBER 4, 2013

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code Abbreviation

Substantive Statement of Cause of Action

861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))